

# TITLE 16. ACUPUNCTURE BOARD

## MODIFIED TEXT

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### Key to Text

Changes to original proposed language is shown as:

- |                           |                |
|---------------------------|----------------|
| Bold and double underline | - new text     |
| Double strikeout          | - deleted text |

Previously noticed amended text (45-day public comment period, first 15-day comment period and second 15-day comment period) is shown as:

- |                  |                                  |
|------------------|----------------------------------|
| single underline | - original proposed new text     |
| strikeout        | - original proposed deleted text |

The Acupuncture Board proposes the following modifications to the original proposed text published on January 5, 2007, and the subsequent modifications noticed on March 23, 2007 (first 15-day notice) and on May 31, 2007 (second 15-day notice):

### **1. Amend Section 1399.480 to read:**

#### **1399.480. Definitions.**

(a) For purposes of this article:

(1) "~~Approved~~ Provider" means those persons or organizations approved by the board to offering continuing education as approved by the Board.

(2) "Course" means a systematic learning experience, at least one hour in length, which deals with and is designed for the acquisition of knowledge, skills and information relevant to the practice of acupuncture.

(3) "Hour" means at least fifty (50) minutes of participation in an organized learning experience.

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Section **s 4934.2 and** 4945, Business and Professions Code.

**2. Amend Section 1399.481 to read:**

**1399.481. Criteria for Provider Approval.**

(a) In order to be an approved provider, those persons, organizations, schools or other entities seeking approval ~~a provider shall submit to the board a provider application on a form provided by the board~~ Continuing Education Provider Application, (Rev. 12/06 5/08), that is hereby incorporated by reference, accompanied by the fee set forth in Section 1399.462. All provider applications and documentation submitted to the board shall be typewritten and in English.

(b) The approval of the provider shall expire two (2) years after it is issued by the board and may be renewed upon the filing of the required application and fee.

~~(c) Acupuncture schools and colleges which have been approved by the board under Section 4939 of the code and Article 3.5 (commencing with Section 1399.436) who seek to be approved providers shall be required to submit an application to the board accompanied by the appropriate fee, but shall be deemed to have met the requirements for approval under this article.~~

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Section s 4934.2 and 4945, Business and Professions Code.

**3. Amend Section 1399.482 to read:**

**1399.482. Approved Providers.**

(a) For the purpose of this Article, the title "approved provider" can only be used when a person or organization has submitted a provider application ~~form~~, remitted the appropriate fee, received approval by the board and has been issued a provider number.

(b) A person or organization may be issued only one provider number. When two or more ~~approved~~ providers co-sponsor a course, the course shall be identified by only one provider number and that provider shall assume responsibility for recordkeeping, advertising, issuance of certificates, ~~and instructor(s) qualifications, and any other requirements.~~

(c) ~~An approved~~ provider shall keep the following records for a period of four years in one identified location:

- (1) Course outlines of each approved course given.
- (2) Record of time and places of each approved course given.
- (3) Course instructor curriculum vitae or resumes.
- (4) The attendance record for each approved course ~~which~~ that shows the name, signature and license number of the acupuncturists ~~taking~~ who took the course and a record of any certificates issued to them.
- (5) Participant evaluation forms for each approved course given.

~~(d) Within ten (10) days of completion of an approved course, the provider shall submit to the board the following:~~

- ~~(1) A copy of the attendance record showing the name, signature and license number of any licensed acupuncturists who attended the approved course.~~
- ~~(2) (1) The participant evaluation forms of the approved course.~~

~~(e)(d)~~ Approved providers shall issue, within 60 days of the conclusion of an approved course, to each participant who has completed the course, a typewritten or printed certificate of completion ~~which~~ that contains the following information:

- (1) Provider's name and number.
- (2) Course title.
- (3) Participant's name and, if applicable, his or her acupuncture license number.
- (4) Date and location of course.
- (5) Number of continuing education hours completed.
- (6) Statement directing the acupuncturist to retain the certificate for at least four (4) years from the date of completion of the course.

~~(f) Approved providers shall notify the board of any changes to the date or location of an approved course. A change to the date of an approved course shall not be prior to the date for~~

~~which the course was approved, if the new date would occur less than 45 days from receipt of the course request.~~

~~(g) Any changes in the content of or instructor(s) for an approved course shall require prior approval of the board. A request to change the content of or instructor(s) for an approved course shall be received by the board at least ten (10) days before the course begins.~~

~~(h)(e) Approved Providers~~ shall notify the board within 30 days of any changes in organizational structure of a provider and/or the person(s) responsible for the provider's continuing education course, including name, address, or telephone number changes.

~~(i)(f)~~ Provider approval is non-transferable.

~~(j)(g) The board may retains the right and authority to audit or monitor courses given by any during reasonable business hours records, courses, instructors and related activities of an approved provider.~~

~~(h) Upon request, providers shall submit to the board attendance records for an approved course that includes name, signature and license number of the acupuncturists taking the course and completed course evaluation forms~~ **completed by the participant on the quality and usefulness of the course.**

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Section **4934.2 and** 4945, Business and Professions Code.

#### **4. Amend Section 1399.483 to read:**

##### **1399.483. Approval of Continuing Education Courses.**

(a) Only an ~~approved~~ provider may obtain approval to offer continuing education courses.

(b) The content of all courses of continuing education submitted for board approval shall be relevant to the practice of acupuncture and Asian medicine and shall fall within the following two (2) categories: be relevant to the practice of acupuncture and shall

(1) Category 1 courses are those courses ~~Be related to clinical matters or the actual provision of health care to patients~~ the knowledge and/or technical skills required to practice

acupuncture, or. Examples of Category 1 courses include, but are not limited to, the following:

(A.) Acupuncture and Asian Medicine

(B.) Western biomedicine and biological sciences.

(C.) Scientific or clinical content with a direct bearing on the quality of patient care, community or public health, or preventive medicine.

(D.) Courses concerning law and ethics and health facility standards.

(E.) Courses designed to develop a licensee's patient education skills, including, but not limited to, patient education in therapeutic exercise techniques, nutritional counseling, and biomechanical education.

(F.) Courses designed to enhance a licensee's ability to communicate effectively with other medical practitioners.

(G.) Courses in acupuncture's role in individual and public health, such as emergencies and disasters.

(H.) Courses in the behavioral sciences, patient counseling, and patient management and motivation when such courses are specifically oriented to the improvement of patient health.

(I.) Research and evidence-based medicine as related to acupuncture and Asian medicine.

~~(2) Be related to direct and/or indirect patient care. Courses in acupuncture practice management or medical ethics shall also be acceptable.~~

(2) Category 2 courses are those courses unrelated to clinical matters or the actual provision of health care to patients. Examples of Category 2 courses include, but are not limited to, the following:

(A.) Practice management courses unrelated to clinical matters and direct patient care, including, but not limited to administrative record keeping, laws and regulations unrelated to clinical medicine, insurance billing and coding, and general business organization and management.

(B.) Breathing and other exercises, i.e. qi gong and taiji quan that are for the benefit of the licensee and not the patient.

(c) Each ~~course~~ provider shall include, for each course offered, a method by which the course participants evaluate the following:

- (1) The extent to which the course met its stated objectives.
- (2) The adequacy of the instructor's knowledge of the course subject.
- (3) The utilization of appropriate teaching methods.
- (4) The applicability or usefulness of the course information.
- (5) Other relevant comments.

(d) Courses designed to be completed by an individual on an independent or home study basis shall not exceed 50% of the required continuing education hours.

(1) Courses that require practical or hands on techniques may not be approved for independent or home study.

(2) Courses approved for independent or home study shall include a self-assessment by the licensee upon completion of the course **that tests the participants mastery of the course material.**

(e) A provider is prohibited from selling, advertising or promoting any named brand product or service during a course. A provider shall ensure that any discussion of name product or service is objectively selected and presented with favorable and unfavorable information and balanced discussion of prevailing information on the product, competing products, alternative treatments or services. A provider shall ensure **meaningful written** disclosure to the audience, at the time of the program, of any relationship between any named product(s) or services discussed and the provider or between any such products or service and any individuals instructor, presenter, panelist, or moderator. However, a provider may offer for sale products or services after the course has been completed as long as it is made clear to all participants that they are under no obligation whatsoever to stay for the sales presentation or purchase any products. Nothing in this subdivision shall be interpreted as restricting a provider from discussing generic **named** products during a course.

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Section **s 4934.2 and** 4945, Business and Professions Code.

**5. Amend Section 1399.484 to read:**

**1399.484. Application for Course Approval.**

(a) ~~Providers may not offer a course for continuing education hours without prior approval from the board. In order to obtain approval for a course, an approved provider shall submit to the board, at least 45 days before the course is first offered, a request for course approval, in English, on a form provided by the board the “Request for Continuing Education (CE) Course Approval Form” (Rev. 12/065/08) that is hereby incorporated by reference, or in a similar format which that contains the following information:~~

~~(1) The provider's name, provider number, address, telephone number and contact person.~~

~~(2) Course title, date(s), location(s), and number of continuing education hours.~~

~~(3) Type and method of instruction and educational objectives to be met.~~

~~(4) Whether the course falls within either Category 1 or Category 2 as defined in section 1399.483(b).~~

~~(4) (5) A course outline, course description, and instructor information and qualifications.~~

~~(5) (6) All proposed public advertisements which that are intended to be used by the provider to advertise the course. Where the provider uses an public advertisement which that is developed after the course has been approved and which was not provided to the board with the course request, the provider shall mail a copy of that advertisement to the board within ten (10) days after its publication.~~

~~(7) A statement disclosing any relationship, financial or otherwise, between the provider, individual speakers or moderators and any named brand products or services discussed in the program.~~

(b) ~~Approved providers shall obtain board approval for every course that is offered for continuing education credit. Where~~ When ~~a previously approved course is to be repeated, the~~

provider shall ~~apply to~~ notify the board in writing of the new date and location at least 30 days before the new course date for approval of each subsequent administration of the course.

~~(c) All requests for course approval shall be submitted to the board at least 45 days before the course is first offered.~~

(c) Providers shall notify the board of any changes to the date or location of an approved course. A change to the date of an approved course may not be prior to the date for which the course was originally approved.

(d) Providers shall notify the board within 48 hours of a course date if the approved course is postponed. The provider shall notify the board in writing of the new date and location of the postponed course. If a postponed course is not taught within three (3) months of the original course date, the provider must reapply for approval.

(e) Any changes in the content of or instructor(s) for an approved course shall require the submittal of a new course application at least 45 days before the course begins.

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Section **s** 4934.2 and 4945, Business and Professions Code.

## **6. Amend Section 1399.485 to read:**

### **1399.485. Instructors.**

(a) It shall be the responsibility of each ~~approved~~ provider to use qualified instructors.

(b) Instructors teaching approved continuing education courses shall have the following minimum qualifications:

(1) An acupuncturist instructor, shall

(A) hold a current valid license to practice acupuncture or is otherwise authorized to act as a guest acupuncturist in accordance with section 4949 of the code, ~~and be free of any disciplinary order or probation imposed by the board~~ A “current valid license” is one that has not been revoked, suspended, placed on probation, voluntarily surrendered or otherwise disciplined by the board, and



(B) be knowledgeable, current and skillful in the subject matter of the course as evidenced through:

1. holding a baccalaureate or higher degree from a college or university and written documentation of experience in the subject matter; or
2. have at least two years' experience in teaching similar subject matter content within the ~~two~~ five years preceding the course; or
3. have at least ~~one-year's~~ two years' experience within the last ~~two~~ five years in the specialized area in which he or she is teaching.

(2) A non-acupuncturist instructor shall

- (A) be currently licensed or certified in his or her area of expertise if appropriate, and
- (B) show written evidence of specialized training, ~~which that~~ may include, but not be limited to, a certificate of training or an advanced degree in given subject area, and
- (C) have at least ~~one-year's~~ two years' teaching experience within the last ~~two~~ five years in the specialized area in which he or she teaches.

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4934.2, 4945 and 4949, Business and Professions Code.

## **7. Amend Section 1399.486 to read:**

### **1399.486. Advertisements.**

(a) Information disseminated by ~~approved~~ providers publicizing continuing education shall be true and not misleading and shall include the following:

(1) Course titles shall reflect course content and may not contain marketing language.

(4)(2) A clear, concise description of the course content and/or objectives

(3) Whether the course has been approved as a Category 1 or Category 2 course.

(2)(4) The date and location of the course.

(3)(5) The provider's name, provider's number and telephone number.

(4)(6) The statement "This course has been approved by the California Acupuncture Board, Provider Number \_\_\_\_\_, for \_\_\_\_\_ hours of continuing education in Category \_\_\_\_\_."

~~(5)(7)~~ Provider's policy on refunds for cases of non-attendance or cancellations.

(8) A ~~full~~ **written** disclosure of all products that will be for sale after completion of the course.

(b) A provider ~~shall~~ may not describe a course as being board approved until written confirmation of approval by the board has been received by the provider. Where a provider is waiting for a determination by the board on ~~its~~ a request for course approval, the provider may advertise that the course is "pending" approval. A provider ~~which~~ that advertises that its course is pending approval shall assume all responsibility if ~~a~~ the course is subsequently denied by the board.

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Section **s 4934.2 and** 4945, Business and Professions Code.

#### **8. Amend Section 1399.487 to read:**

##### **1399.487. Denial, Withdrawal and Appeal of Approval.**

(a) The board may deny a provider application or withdraw its approval of a provider ~~or deny a provider application~~ for causes ~~which~~ that include, but are not limited to, the following:

(1) the provider or applicant has been convicted ~~Conviction~~ of a crime substantially related to the activities of a provider or licensee;-

(2) the provider or applicant has failed ~~Failure~~ to comply with any provision of Chapter 12, Division 2 of the Business and Professions Code ~~and/or~~ Division 13.7 of Title 16 of the California Code of Regulations;-

(3) the provider or applicant has had a license revoked, suspended, placed on probation, voluntarily surrendered or otherwise disciplined by the board;

(4) the board may suspend review and approval of an application if an administrative action is pending against an applicant's license.

(b) Any material misrepresentation of fact by a provider or applicant in any information required to be submitted to the board is grounds for withdrawal or denial of an application.

(c) The board may withdraw its approval of a provider or a course after giving the provider written notice setting forth its reasons for withdrawal and after giving the provider a reasonable opportunity to be heard by the board or its designee.

(d) Should the board deny approval of a provider or a course request, the applicant may appeal the action by ~~filing~~ submitting to the board, a letter stating the reason(s) for the appeal ~~with the board~~. The letter of appeal shall be filed with the board within ten (10) days of the mailing of the applicant's notification of the board's denial. The appeal shall be considered by the board or its designee. In the event that the board or its designee ~~considers~~ grants the appeal after the date of the course for which the appeal is being made, ~~a retroactive approval may be granted~~ the board will accept continuing education hours from its licensees who completed the course.

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Section **s** 4934.2 and 4945, Business and Professions Code.

## **9. Amend Section 1399.488 to read:**

### **1399.488. Processing Times for Provider and Course Request Applications.**

(a) ~~(1)~~ The board shall inform a provider seeking approval ~~within ten (10) days~~ thirty (30) days after receipt of a completed application and required fees of its decision whether the application has been approved ~~days from receipt of an application of its decision whether the application is complete and accepted for filing or is deficient and what specific information is required.~~

~~(2) Once an application is "complete," the board shall inform a provider seeking approval within 30 days after completion of the application of its decision whether the applicant meets the requirements for approval and is approved. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been received by the board.~~

~~(3) The minimum, median and maximum processing times for a provider application from the time of receipt of a completed application until the board makes a decision is set forth below:~~

Minimum ~~--- One (1) day~~

Median ~~----- Ten (10) days~~

Maximum ~~--- Thirty (30) days~~

(b) (1) ~~The board shall inform a provider seeking course approval within ten (10) thirty (30) days from after receipt of a completed application form together with all required information and documentation whether the course is approved. request for course approval of its decision whether the request is complete and accepted for filing or is deficient and what specific information is required.~~

(2) ~~Once a request for course approval is complete, the board shall inform a provider within 30 days of its decision whether the course meets the requirements for approval. "Completion of the application" means that a completed application form together with all required information and documentation have been received by the board.~~

(3) ~~The minimum, median and maximum processing times for a course request application from the time of receipt of a completed application until the board makes a decision is set forth below:~~

Minimum ~~--- One (1) day~~

Median ~~----- Ten (10) days~~

Maximum ~~--- Thirty (30) days~~

(c) If a provider seeking approval submits a request for a course approval along with the initial provider application, the course request will not be considered for approval until the provider application is approved. In such cases, the board's processing time for the course request will be in accordance with Section 1399.488(b)(1)-(3).

NOTE: Authority cited: Section 4933, Business and Professions Code; and Section 15376, Government Code. Reference: Section **4934.2 and 4945, Business and Professions Code** ~~15376, Government Code.~~

**10. Amend Section 1399.489 to read:**

**1399.489.Continuing Education Compliance.**

(a) With the exception of those holding an inactive license, Wwhen renewing an initial license ~~which that has been issued for less than two years, active~~ licensees shall complete the following hours of board-approved continuing education:

Period of Initial Licensure	Requiring Continuing Education Hours
<del>6-8 Months</del> .....	<del>10</del>
<del>9-12 Months</del> .....	<del>15</del>
13-16 Months.....	<del>20</del> <u>35</u>
17-20 Months.....	<del>25</del> <u>40</u>
21- <del>24</del> <u>23</u> Months.....	<del>30</del> <u>45</u>

Thereafter, all ~~active~~ licensees shall complete 50 ~~30~~ hours every two years as a condition of renewal. No more than five (5) hours of continuing education in each two-year period may be obtained in Category 2.

(b) Licensees are limited to fifty percent (50%) of the required continuing education hours every two (2) years for independent or home study courses.

~~(b)(c)~~ Each ~~acupuncturist~~ licensee at the time of license renewal shall sign a statement under penalty of perjury that he or she has or has not complied with the continuing education requirements. It shall constitute unprofessional conduct for any licensee to misrepresent completion of the required continuing education

~~(e)(d)~~ The board may audit ~~once each year~~ a random sample of ~~acupuncturists~~ licensees who have reported compliance with the continuing education requirement. ~~No acupuncturist shall be subject to audit more than once every two (2) years.~~

~~(d) It shall constitute unprofessional conduct for any acupuncturist to misrepresent completion of the required continuing education~~

(e) Any ~~acupuncturist~~ licensee selected for audit shall be required to submit documentation or records of continuing education coursework that he or she has taken and completed.

(f) Each ~~acupuncturist~~ licensee shall retain for a minimum of four (4) years records of all continuing education programs that he or she has attended ~~which~~ that indicate the provider's name, title of the course or program, date(s) and location of course, and number of continuing education hours awarded.

(g) Instructors of approved continuing education courses may receive one hour of ~~CE~~ continuing education for each classroom hour completed as an instructor, up to a maximum of ~~two (2)~~ six (6) hours of continuing education per year, regardless of how many hours or courses are taught. Participation as a member of a panel presentation for an approved course shall entitle the participant to earn continuing education hours equal to the actual panel presentation time within the appropriate category.

(h) Any licensee who participates in the development of an occupational analysis, an examination development session, item review session or a passing score workshop, shall receive one (1) hour of continuing education for every two (2) hours of participation.

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Sections 4938, 4945 and 4955, Business and Professions Code.

## **11. Amend Section 1399.489.1 to read:**

### **1399.489.1. Inactive License.**

(a) Any ~~acupuncturist~~ licensee who is not actively engaged in the practice of acupuncture desiring an inactive license under the provisions of Article 9 (commencing with Section 700) Chapter 1 of Division 2 of the code or to restore an inactive license to active status shall submit an completed **"Active/Inactive License Application" (Rev. 5/08), that is hereby incorporated by reference,** ~~application~~ to the board on a form provided by it. ~~(Active/Inactive License Application (Rev. 5/95-12/06))~~ The applicant need not submit his or her certificate or a copy thereof to the board with the application.

(b) ~~In order to~~ To restore an inactive license to active status, the licensee shall have completed a minimum of ~~30~~ 50 hours of approved continuing education within the last two (2) years in compliance with this article. At least 45 hours of continuing education must be in coursework approved as Category 1. In the event a license has been inactive less than ~~two (2)~~ one (1) year, a minimum of ~~fifteen (15)~~ 25 hours of continuing education ~~will be~~ is required, with at least 22 hours of coursework approved as Category 1.

(c) The inactive status of any licensee shall not deprive the board of its authority to institute or continue a disciplinary proceeding against a licensee upon any ground provided by law or to enter an order suspending or revoking a license or otherwise taking disciplinary action against the licensee on any such ground.

NOTE: Authority cited: Section 4933, Business and Professions Code. Reference: Section s ~~462 704 and~~ 4945, Business and Professions Code.